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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,049	04/08/2004	Dustin Kirkland	AUS920031008US1	9648
<div>7590 Darcell Walker Suite 250 9301 Southwest Freeway Houston, TX 77074</div>			<div>EXAMINER ZUBAJLO, JENNIFER L</div>	
			<div>ART UNIT 2629</div>	<div>PAPER NUMBER</div>
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/821,049	<b>Applicant(s)</b> KIRKLAND ET AL.	
	<b>Examiner</b> Jennifer Zubajlo	<b>Art Unit</b> 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-15 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-15 and 17-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-7, 11-14, 19-21, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beom-Seok Lee (Pub. No.: US 2003/0234799 A1) in view of Gregory T. Janky (Patent No: US 7,050,907 B1).

As to claims 1 and 11, Lee teaches, a method and a computer program product in a readable medium for adjusting a screen display based on a user's distance from the display device (see Abstract, figures 1 and 2, and [0015]) comprising: instructions for establishing and establishing a relationship between the distance of a user from a display screen and the size of the display on the screen (see Abstract, figures 1 and 2, and [0015]); instructions for detecting and detecting the movement of the user with respect to the display screen (see Abstract, figures 1 and 2, and [0015]); instructions for adjusting and adjusting the size of the screen display based on the location of the user with respect to the display screen (see [0038] and [0042]); and instructions for displaying and displaying the display in the adjusted display size (see figures 5 and 6, [0038] and [0042]).

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Lee does not teach Lee doesn't teach determining whether said detected user movement is a valid movement.

Janky teaches determining whether said detected user movement is a valid movement (see column 7 lines 8-12 and column 13 lines 18-24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the validity of the movements detected by a motion detector taught by Janky into the method and a computer program product in a readable medium for adjusting a screen display based on a user's distance from the display device taught by Lee because it is useful if the display adjustments are only made if a movement is valid so that the screen doesn't adjust for every movement made.

As to claims 2 and 12 (dependent on claim 1 and 11 respectively), Lee teaches establishing a threshold distance of the user from the display screen (see [0013], [0014], [0018], [0019], [0029], [0030], and [0036]). This is not directly stated however as interpreted broadly it is just an example of the user-defined ratio described.

As to claims 3 and 13 (dependent on claim 2 and 12 respectively), Lee teaches determining whether detected movement of the user is beyond the established threshold distance before adjusting the size (see [0013], [0014], [0018], [0019], [0029], [0030], and [0036]). This is not directly stated however as interpreted broadly it is just an example of the user-defined ratio described.

As to claims 4 and 14 (dependent on claim 2 and 12 respectively), Lee teaches establishing a local user area within a defined distance from the display screen (see [0013], [0014], [0018], [0019], [0029], [0030], and [0036]). This is not directly stated however as interpreted broadly it is just an example of the user-defined ratio described.

As to claim 6 (dependent on claim 4), Lee teaches the threshold distance to be the outer boundary of the local user area (see [0013], [0014], [0018], [0019], [0029], [0030], and [0036]). This is not directly stated however as interpreted broadly it is just an example of the user-defined ratio described. The boundary of the threshold distance is simply an engineering choice of design.

As to claim 7 (dependent on claim 2), the threshold distance comprises multiple threshold ranges (see [0013], [0014], [0018], [0019], [0029], [0030], and [0036]). This is not directly stated however as interpreted broadly it is just an example of the user-defined ratio described and can also be an engineering choice of design.

As to claims 9 and 10 (dependent on claims 1 and 9 respectively), the combination of Lee and Janky teach the limitations as described in the above rejection of claim 1.

Janky teaches determining whether said detected user movement is a valid movement, determining the amount of time a user is out of the local area, and establishing a minimum time the user has to be out of the local area to trigger a

movement beyond the threshold distance (see column 7 lines 8-12 and column 13 lines 18-24).

As to claims 17 and 18 (dependent on claims 12 and 17 respectively), the combination of Lee and Janky teach the limitations as described in the above rejection of claims 11 and 12.

Janky teaches determining whether said detected user movement is a valid movement, determining the amount of time a user is out of the local area, and establishing a minimum time the user has to be out of the local area to trigger a movement beyond the threshold distance (see column 7 lines 8-12 and column 13 lines 18-24).

As to claim 19, Lee teaches, a system for adjusting a screen display based on a user's distance from the display device comprising a display device (see abstract, figures 1 and 2, and [0015]); a device for determining user movement (see abstract, figure 1 and 2); a distance approximation device for determining the location of a user from said display device (see abstract, figures 1 and 2, and [0015]); software for determining the whether the determined distance of a user from the display device is beyond an established threshold distance (see [0030] and [0044]); and software for adjusting the size of the display on the display device based on the determined distance of the user from the display device (see [0030] and [0044]).

Lee doesn't teach determining the validity of any determined movement.

Janky teaches determining the validity of any determined movement (see column 7 lines 8-12 and column 13 lines 18-24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the validity of the movements detected by a motion detector taught by Janky into the system for adjusting a screen display based on a user's distance from the display device comprising a display device taught by Lee because it is useful if the display adjustments are only made if a movement is valid so that the screen doesn't adjust for every movement made.

As to claim 20 (dependent on claim 19), Lee teaches the distance approximation device as part of the display device (see figure1, [0029] and [0041]).

As to claim 21 (dependent on claim 19), as interpreted broadly Lee teaches the distance approximation device positioned immediately adjacent the display device (figure 1, [0029], and [0041]). The location of the sensor is not taught directly but is simply an engineering choice of design as long as it is somewhere close to display device.

As to claim 23 (dependent on claim 2), Janky teaches wherein the said valid movement determination step further comprises the steps of: determining whether user movement be the threshold distance; and determining the amount of time user is beyond the threshold distance (see column 7 lines 8-12 and column 13 lines 18-24).

As to claim 24 (dependent on claim 23), Janky teaches wherein said valid movement comprises user movement beyond the threshold distance for a predetermined amount of time (see column 7 lines 8-12 and column 13 lines 18-24).

3. Claims 5, 15, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beom-Seok Lee (Pub. No.: US 2003/0234799 A1) in view of Gregory T. Janky (Patent No: US 7,050,907 B1), further in view of Michael Joseph Dunn (Patent No.: US 6,890,077 B2).

As to claims 5, 15, and 22, the combination of Lee and Janky teach the limitations as described in the above rejection of claims 1-4, 11-14, and 19.

The combination of Lee and Janky do not teach determining whether display has multiple sections and when display does have multiple sections or identifying a selected section by user for adjustment.

Dunn teaches determining whether a display has multiple sections and when display does have multiple sections, identifying a selected section by user for adjustment (see Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine determining whether display has multiple sections and when display does have multiple sections, identifying a selected section by user for adjustment taught by Dunn into the system, method and computer program product in a readable medium for adjusting a screen display based on a user's distance and the



validity of this distance/movement detected from the display device taught by the combination of Lee and Janky, because it would be more user friendly especially if the user is only interested in viewing certain screen contents from a far distance.

### ***Response to Arguments***

Applicant's arguments filed 7/9/200 have been fully considered but they are not persuasive.

Applicant has canceled claims 8 and 18 and added new claims 23 and 24.

Applicant argues that in order to sustain a rejection under 102 (a) the cited reference must describe each element of a claim. Contrary to the examiner's position that all elements are disclosed in the cited reference, the step of determining whether said detected user movement is a valid movement as described in the claims as amended is not, so the rejection is unsupported by the art and should be withdrawn. Examiner agrees that in order to sustain a rejection under 102 (a) the cited reference must describe each element of a claim. However, the step of determining whether said detected user movement is a valid movement was not in the previous independent claims 1, 11, or 19 where the 102 (a) rejection was used. Instead the step of determining whether said detected user movement is a valid movement was claimed in canceled claims 8 and 16 and their dependent claims and these claims were rejected under 103 (a). Therefore, independent claims 1, 11, and 19 (as amended to include limitations similar to claims 8 and 16) are rejected under 103 (a) as described above.

However, this limitation is taught by Janky (see column 7 lines 8-12 and column 13 lines 18-24).

Applicant argues that Janky describes motion detection of an electronic device and that Janky's invention has a primary objective of security and theft applications. Applicant also argues that Janky appears to be Non Analogous Art and that there is no suggestion or teaching to modify Lee with Janky to produce Applicant's invention. However, the teaching of valid movement associated with position/motion detection is the teaching taken from Janky. Janky states that position reporting devices are frequently used to locate and report the position of a person or object (see column 1 lines 21-22). Janky's primary objective of security and theft applications is not taken into consideration or used in the combination of references for rejection. Janky is not considered Non Analogous Art and the reason for combination is for combining the teaching of a valid user movement associated with position/motion detection taught by Janky into the position/motion detection used for adjusting a display taught by Lee (see above rejections).

### ***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Zubajlo whose telephone number is (571) 270-1551. The examiner can normally be reached on Monday-Friday, 8 am - 5 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amare Mengistu can be reached on (571) 272-7674. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JZ

7/26/2007

A handwritten signature in black ink, appearing to read "Amare Mengistu", with a stylized flourish at the end.

AMARE MENGISTU  
SUPERVISORY PATENT EXAMINER